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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,880	06/28/2001	James S. Watkins	5793.3067-00	3039

22852 7590 10/08/2004

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EXAMINER

CHANKONG, DOHM

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/892,880	WATKINS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dohm Chankong	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/30/01, 11/20/02</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 1-16 are presented for examination.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 1 recites the limitation "the data server system" in the preamble. There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7, 9-13, and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Primak et al, U.S Patent No. 6,598,077 ["Primak"], in view of Primak et al, U.S Patent No. 6,389,448 ["Primak.2"].

Art Unit: 2152

6. Primak.2 was disclosed by Applicant in IDS #3, dated 11.20.2002.

7. As to claim 1, Primak discloses a data management system that communicates with a client terminal [Figure 1], the data server system comprising:

a plurality of server devices, each capable of performing the server function requested by the client terminal, and wherein each of the plurality of server devices has access to a common storage device [Figure 1 <items 130, 140, 40a, 40b> | column 2 <line 57> to column 3 <line 5> | column 7 <lines 9-15>]; and

a load balancer for receiving the request and for selecting one of the plurality of server devices to perform the requested function [column 7 <lines 7-29> | column 8 <lines 52-65>];

wherein the load balancer routes the request to the selected server device to perform the requested function, and wherein the selected server device accesses the common storage device to perform the request [column 7 <lines 5-15> | column 8 <lines 52-65> | column 10 <lines 41-52> | column 11 <lines 3-5>].

Primak does not explicitly disclose the system comprising a virtual address connection defining a network address to which the client terminal sends a request reflecting a function to be performed, and consequently, also does not disclose that the load balancer is associated with the a virtual address connection.

8. Primak.2 discloses a system comprising a load balancer with a virtual address connection defining a network address to which the client terminal sends a request reflecting

Art Unit: 2152

a function to be performed [Figure 1 <items 60,30> | column 4 <lines 31-39>]. It would have been obvious to one of ordinary skill in the art to implement Primak.2 's virtual address functionality into Primak's data management system, and specifically, in Primak's router, so that Primak's clustered servers can share a single virtual IP address. Virtual IP addressing is well known in the art and suggested by Primak.2 as allowing multiple servers to share a single address so that each server in the cluster can easily be addressed (using a single address) by clients or systems located outside the server cluster. One of ordinary skill in the art would have reasonably inferred this implementation as Primak discloses the use of a router and server cluster system similar to that disclosed in Primak.2's invention.

9. As to claim 2, Primak discloses the system of claim 1, wherein the plurality of server devices operate in parallel [Figure 1 <items 130,140,30(a...g)> | column 8 <lines 52-65>].

10. As to claim 3, Primak discloses the system of claim 1, wherein the request is a data file request and wherein the client terminal sends all requests to the router [column 10 <lines 45-52>], but does not explicitly disclose that the requests are sent to the virtual address connection.

11. Primak.2 discloses a data management system wherein requests are sent to a virtual address connection [Figure 1 <item 30>]. See paragraph 7 for rejection basis and motivation to combine references.

Art Unit: 2152

12. As to claim 4, Primak discloses a plurality of client terminals, and a load balancer that determines the one of the plurality of server devices that will perform the server function requested by each of the plurality of client terminals [column 5 <lines 63-66> | column 11 <lines 3-21>] where: although Primak does not specifically state that there are a plurality of client terminals, one of ordinary skill in the art would have reasonably inferred that since Primak is disclosing the use of load-balancing techniques, that there would be multiple clients in the system that would cause the load].

While Primak discloses client terminals sending requests to a router [abstract], he does not explicitly disclose the client terminals sending respective requests to the virtual address connection.

13. Primak.2 discloses a data management system wherein client terminals send requests to a virtual address connection [Figure 1 <items 60,30>]. See paragraph 8 for rejection basis and motivation to combine references.

14. As to claim 5, Primak discloses the system of claim 1, wherein the load balancer randomly determines the server device that will perform the server function [column 8 <lines 47-51>].

15. As to claim 7, Primak discloses the system of claim 1, wherein the load balancer determines the server device that will perform the server function based on a current processing load of each server device [column 11 <lines 3-5>].

Art Unit: 2152

16. As to claim 9, Primak discloses a method for operating a data management system that communicates with a client terminal [abstract | Figure 1], the method comprising:

receiving a request for performance of a server function from a client terminal, wherein the server process is received at an address connection defining a network address to which the client terminal sends the request for performance of the server function [Figure 2 | column 6 «lines 54-67» | column 10 «lines 41-52»];

selecting one of a plurality of server devices to perform the requested function, wherein each of the plurality of server devices is capable of performing the requested server function, and wherein each of the plurality of server devices has access to a common storage device [Figure 1 «items 10a,10b» | column 7 «lines 5-15» | column 8 «lines 52-65» | column 10 «lines 41-52» | column 11 «lines 3-5»];

forwarding the client request to the selected server device [column 11 «lines 3-14»];

accessing, using the selected server device, the storage device to perform the request [column 10 «lines 45-49»]; and

forwarding, based on the performance request, a server response to the client terminal [column 1 «lines 43-47» | column 11 «lines 14-16»].

Primak does not explicitly disclose that the request is received at a virtual address connection.

Art Unit: 2152

17. Primak.2 discloses a data management system wherein a request is received at a virtual address connection [Figure 1 <items 60,30>]. See paragraph 8 for rejection basis and motivation to combine references.

18. As to claims 10-13 and 15, they do not teach or further define over the limitations recited in claims 2-5 and 7. Therefore, they are also rejected for the same reasons set forth in claims 2-5 and 7, supra.

19. Claims 6 and 14 are rejected under 35 U.S.C § 103(a) as being unpatentable over Primak and Primak.2, in further view of O'Neil et al, U.S Patent No. 6,128,279 ["O'Neil"].

20. Primak does disclose load-balancing, but does not disclose a system wherein the load balancer determines the server device that will perform the server function according to a predetermined rotational order.

21. O'Neil discloses the use of predetermined rotational order (or round-robin) in a network is a well known technique for load-balancing and expected in the art for providing a means for distributing processing loads among a cluster of network devices [column 1 <lines 31-41>]. Therefore one of ordinary skill in the art would have reasonably inferred the use of the predetermined rotational technique for load-balancing in Primak's system for providing another means of determining which server to choose for serving the client request.



Art Unit: 2152

22. As to claim 14, it does not teach or further define over the limitations of claim 6.

Therefore, claim 14 is rejected for the same reasons as set forth in claim 6, supra.

23. Claims 8 and 16 are rejected under 35 U.S.C § 103(a) as being unpatentable over Primak and Primak.2, in further view of Cohn et al, U.S Patent No. 5,606,679 ["Cohn"].

24. Primak does not disclose a system further including a data share unit for preventing multiple server devices from simultaneously accessing the same storage location of the server storage device.

25. Cohn discloses a system further including a data share unit for preventing multiple server devices from simultaneously accessing the same storage location of the storage device [Figure 1 <item 18> | column 8 <lines 2-7>]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Cohn's data share unit and its functionality into Primak's system to prevent concurrent access of the server devices to the same physical storage device to prevent possible corruption of the data in the storage device.

26. As to claim 16, it does not teach or further define over the limitations of claim 8.

Therefore, claim 16 is rejected for the same reasons as set forth in claim 8, supra.

Art Unit: 2152

**Conclusion**

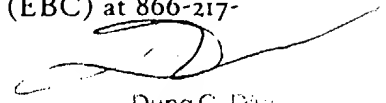
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S Patent Publication No. 2001/0032232 A1 to Zombek et al [paragraphs 0073 and 0074 - utilization of a storage area network and virtual addressing to access a shared resource].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (703)305-8864. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dung C. Di  
Primary Examiner

DC